

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

WILLIAM WUNDERLICH,

Appellant

v.

DEANNA JENSEN; DIVISION OF EMPLOYMENT SECURITY

Respondent

DOCKET NUMBER WD79209

DATE: MAY 24, 2016

Appeal From:

Labor and Industrial Relations

Appellate Judges:

Division Three

James E. Welsh, P.J., Anthony Rex Gabbert, and Karen K. Mitchell, JJ.

Attorneys:

Andrew C. Hooper, Jefferson City, MO,
Deanna Jensen,

Counsel for Respondent
Pro Se

Attorneys:

Robert Reeser JR., High Ridge MO

Counsel for Appellant

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

WILLIAM WUNDERLICH,

Appellant,

v.

**DEANNA JENSEN; DIVISION OF
EMPLOYMENT SECURITY,**

Respondent.

WD79209

Labor and Industrial Relations County

Before Division Three: James E. Welsh, P.J., Anthony Rex Gabbert, and Karen K. Mitchell, JJ.

William Wunderlich appeals the Labor and Industrial Relations Commission's order affirming the Appeals Tribunal's dismissal of his appeal from a Division of Employment Security deputy's determination that Wunderlich's former legal secretary, Deanna Jensen, had not been discharged for misconduct connected with work and, therefore, was not disqualified from unemployment benefits. Wunderlich contends that: (1) the Commission's decision lacked evidentiary support on the whole record and the Commission abused its discretion in refusing to set aside the dismissal because Wunderlich showed good cause for failing to appear at the telephone hearing; (2) the Commission abused its discretion in refusing to set aside the dismissal because the Commission imposed an obligation upon him with respect to his appearance at the telephone hearing that was inconsistent with the Commission's regulations adopted pursuant to the Missouri Administrative Procedures Act because the Commission applied a "five minute wait" rule that was not a valid rule or regulation, and (3) the Commission denied him due process in failing to notify him of such a "five minute wait" rule until it was too late for him to participate in the hearing.

AFFIRMED

Division Three holds:

- (1) The Commission did not abuse its discretion in refusing to set aside the dismissal of Wunderlich's appeal as Wunderlich failed to show good cause to excuse his failure to appear at the telephone hearing regarding his appeal.
- (2) The Commission did not base its good cause determination on any unpromulgated rules alleged by Wunderlich.
- (3) The Commission did not deny Wunderlich due process as Wunderlich was afforded the opportunity to be heard in a meaningful manner.

Opinion by Anthony Rex Gabbert, Judge

Date: 5/24/16

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